

**IN THE COURT OF DISTRICT MUNSIF UTHANGARAI
KRISHNAGIRI DISTRICT**

**Present : Thiru. G. Amar Anand, B.A.LL.B (Hons), LL.M.
District Munsif, Uthangarai**

On this Monday, the 29th day of July 2024

I.A.No. 04 of 2024 in O.S.No. 68 of 2016

TNKI13-000713-2016

1. Kolandhai (Died)
2. Sampooram
3. Mani @ Subramani
4. Madhu
5. Annamalai
6. Annakili

...Petitioners / Defendants

/versus/

1. Dhanapathi
2. Pushpa

...Respondents / Plaintiffs

This interlocutory application came up before this Court on 29.07.2024 for final hearing in the presence of advocate Thiru. S. Moorthi, the learned counsel for the petitioners and advocate Thiru. N. Devendiran, the learned counsel for the respondents and upon hearing both sides and on perusal of records and having stood over for consideration till date, this Court delivers the following:

ORDER

The application has been filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking leave to amend the written statement.

The averments of the petitioners in brief:

1. The petitioners herein are the defendants in the suit instituted by the respondents for declaration and perpetual injunction and aver that S.No. 63/3B has been incorrectly stated as S.No. 63/3D in the 6th line in the 5th page of the written statement filed by the defendants 1 to 3 on 09.03.2018 and in the 14th line in the 11th



paragraph in the 5th page of the written statement filed by the 6th defendant on 11.12.2023 after the death of the 1st defendant. The petitioners aver that the error is neither willful nor wanton and is only a typographical error and pray for allowing this application and grand leave to amend the written statements.

The averments of the respondents in brief:

2. The respondents herein are the plaintiffs in the suit and deny the averments of the petitioners in toto as false. The respondents aver that the petitioners have wantonly filed written statement on 29.01.2018 and additional written statement on 11.12.2023 stating incorrect survey number and have filed this application only to prolong the proceedings. The respondents aver that the suit is currently pending for further evidence of the plaintiffs and this application has been filed only to delay the trial and it is affected by law of limitation. Hence, the respondents seek for dismissal of the application.

Point for consideration:

3. Whether this application is liable to be allowed?

Evidence:

4. Neither of the parties to this application has adduced any oral or documentary evidence.

Discussion:

5. This Court, having considered the arguments advanced on both sides and thoroughly examined the pertinent case records, proceeds to delineate its findings by the following discussion. This suit has been instituted for declaration of title of the respondents over the suit property and for perpetual injunction restraining the petitioners from distributing the possession of the suit property. This application has

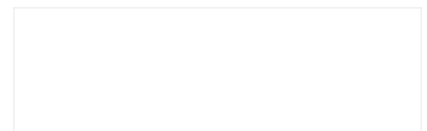


been filed by the defendants seeking leave to amend the written statement and additional written statement filed on 09.03.2018 and 11.12.2023 respectively. The petitioners seek to amend the “S.No. 63/3D” appearing in the both written statements to “S.No. 63/3B”. It is the case of the defendants that the UDR Patta for S.No. 63/3B was issued to the 1st defendant recognizing his possession in accordance to the oral partition. A perusal of the defendant side documents such as the original Patta Passbook standing in the name of the 1st defendant for Patta No. 36 and Computer Chitta for the Patta in the name of the 1st defendant would show that the Patta has been issued for S.No. 63/3B and not S.No. 63/3D. It is also not the case of the respondents that the survey number is 63/3D but that the petitioners are delaying the proceedings. Hence, this Court is of considered view that the reasons furnished by the petitioner are satisfactory and that it is a typographical error. However, this application has been filed after commencement of the trial and after the plaintiffs have taken steps regarding the death of the 1st defendant. Hence, to usher due diligence, this Court is inclined to allow this application on cost.

Result:

6. As a result, this application is allowed on condition of payment of cost of Rs. 200/- (Rupees Two-Hundred only) to the respondent on or before 05.08.2024. For compliance call on 05.08.2024.

This order was dictated to the steno-typist and transcribed by her on computer and after rectification of mistakes, pronounced by me in open court on this 29th day of July 2024.



District Munsif
Uthangarai



Annexure

Petitioner side evidence

Petitioner side Witnesses: Nil

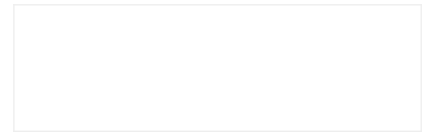
Petitioner side Exhibits: Nil

Respondent side evidence

Respondent side Witnesses: Nil

Respondent side Exhibits: Nil

Court Documents: Nil



District Munsif
Uthangarai